

***United States Court of Appeals
for the Second Circuit***



**APPELLEE'S
SUPPLEMENTAL
APPENDIX**

77-1175

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
DOCKET NO. 77-1175

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PJS

UNITED STATES OF AMERICA,

Appellee,

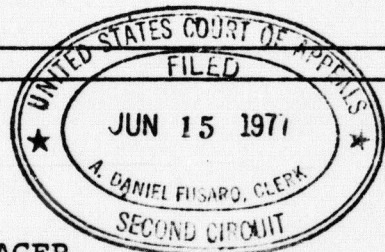
- against -

MIGUEL RUSSO and FRANCOIS
CHIAPPE,

Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S SUPPLEMENTAL APPENDIX



DAVID G. TRAGER,
United States Attorney,
Eastern District of New York.

PAGINATION AS IN ORIGINAL COPY

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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----X
5 UNITED STATES OF AMERICA

6 -against-

Criminal Folder #

7 FRANCOIS POSSI, ET AL
8 -----X

9
10 225 Cadman Plaza East
11 Brooklyn, New York

12 February 15, 1973

13
14 GRAND JURY MINUTES

15
16 Presented by:

17 THOMAS P. PUCCIO, ESQ.
18 Assistant United States Attorney

19 Reported by:

20 Elizabeth A. Ng
21

22 Witness:

23 MICHEL NICOLI
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M I C H E L N I C O L I, after being sworn,
through the interpreter, was examined and
testified as follows:

M A R G A R I T A M E N S A, an interpreter
was sworn to interpret the questions and
answers put to her as follows:

EXAMINATION BY

MR. PUCCIO:

Q Will you state your name for the record,
please.

A Michel Nicoli.

Q Mr. Nicoli, how old are you?

A Forty-two.

Q Where were you born?

A In Marseille, France.

Q On what date?

A December 7, 1930.

Q Are you presently married?

A No.

Q During the year 1965, did you meet a
man known as Francois Rossi?

A Yes.

Q In what country did you meet this man?

A In Buenos Aires, Argentina.

MR. PUCCIO: I ask that these five photographs be marked as Grand Jury Exhibits 1 through 5.

(Whereupon, the aforementioned photographs were received and marked Grand Jury Exhibits 1 through 5 in evidence, as of this date, by the reporter.)

Q I show you Grand Jury Exhibit 1. Is that a photograph of Francois Rossi?

A Yes.

Q During the year 1965 did you also meet a man called Francois Chiappe?

A Yes.

Q Where did you meet Francois Chiappe?

A Buenos Aires, Argentina.

Q I show you Grand Jury Exhibit 2. Is this a photograph of Francois Chiappe?

A Yes. Francois Chiappe.

MR. PUCCIO: I offer Grand jury Exhibits 1 and 2 into evidence.

Q Subsequently, did you and Francois Rossi and Francois Chiappe agree to work together in the narcotics business?

A Yes.

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Q As a result of this agreement did you and Rossi and Chiappe arrange to send heroin to the United States during the years 1965 and 1966?

A Yes.

Q During those years did you and Francois Rossi carry heroin into the United States on your bodies?

A Yes.

Q During 1965 and 1966 was this heroin sold in New York City?

A Yes, in New York.

Q Did you and Rossi and Chiappe share in the profits of this enterprise during the years 1965 and 1966?

A Yes.

Q I direct your attention now, Mr. Nicoli, to May of 1967, during the month of May, 1967, did you and Rossi and Chiappe recruit an individual called Elio Paolo Gigante for the heroin traffic?

A Yes.

Q Did you first meet Gigante in Buenos Aires, Argentina?

A Yes, in Buenos Aires.

Q What was his occupation at that time?

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A He was a steward with Avianca Airlines.

Q Did you and Rossi and Chiappe speak to Gigante about possibly using the airlines as a means to transport heroin into the United States?

A Yes.

Q During the month of June 1967 did you meet with Gigante in Bogota, Colombia?

A Yes.

Q At that time were further arrangements made between you and Gigante concerning the transporting of the heroin?

A Yes.

Q During June of 1967 were you in New York City for the purpose of receiving heroin from Gigante?

A Yes.

Q Where in New York City had you agreed to meet him to receive the heroin?

A At the Hotel Lexington.

Q Did you go to the Hotel Lexington at that time?

A Yes.

Q Was Gigante there?

A No.

Q As a result did you place a phone call to his home in Bogota, Colombia from New York?

A Yes.

Q Did he answer the phone and were you able to speak with him?

A Yes.

Q What did he say?

A He told me that he was sick.

Q Did this mean to you that the police had possibly arrested him?

A Yes.

Q As a result did you leave New York?

A Yes, immediately.

Q During July of 1967 did you meet with Chiappe and Rossi in Buenos Aires and discuss with them the problem regarding Gigante?

A Yes.

Q Did they tell you that Gigante had been arrested in Bogota, Colombia and approximately fourteen kilograms of heroin had been seized there?

A Yes.

Q Subsequently was Gigante able to arrange for his release from prison in Bogota and also was he able to arrange to get some of the heroin

back from the police, to your knowledge?

A Yes.

Q Was this heroin that Gigante was able to obtain from the police ultimately delivered to the United States?

A Yes.

Q Around this time did a person called Miguel Russo become involved with your trafficking organization?

A Yes.

Q I show you Grand Jury Exhibit 3. Is that a photograph of Miguel Russo?

A Yes.

MR. PUCCIO: I offer that into evidence.

Q Was it Miguel Russo that delivered the heroin that Gigante was able to get back from the police to New York City?

A Yes.

Q Did Russo deliver to you in New York?

A Yes, to me.

Q How many kilos were there?

A There were about twelve and a half, thirteen kilos.

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Q Did you deliver the twelve and a half or thirteen kilos to a buyer?

A Yes.

Q During October 1967 were you again in New York City to receive heroin?

A Yes.

Q How many kilos were involved in this transaction?

A Nine.

Q Who delivered the nine kilograms to you in New York City?

A It was Mr. Miguel Russo.

Q Did you deliver these nine kilos to the customer?

A Yes.

Q Were the profits from the nine kilogram shipment that you just mentioned and the twelve and a half to thirteen kilogram shipment that you mentioned previously equally divided between you and Rossi and Chiappe?

A Yes.

Q With respect to the two shipments, to these two previous shipments that you have just mentioned, who would bring the money back to South America?

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2 A I did.

3 Q I direct your attention now, Mr. Nicoli,
4 to January of 1968. At that time did Francois Rossi
5 travel in South America to Rome, Italy in order to
6 meet a man called Paul Paganacci?

7 A Yes.

8 Q When Marcello returned from Italy,
9 did he tell you that Paul Paganacci had agreed to
10 supply you and Marcello with heroin?

11 A Yes.

12 Q Did Marcello tell you at that time how
13 many kilograms would be involved in the first shipment?

14 A Yes.

15 Q By the way, Mr. Nicoli, I have used
16 the name Marcello. Was Francois Rossi also known
17 by the name of Marcello?

18 A Yes.

19 Q Mr. Nicoli, how many kilograms did
20 Marcello tell you would be involved in the shipment
21 of Mr. Paganacci?

22 A Forty.

23 Q Did Marcello tell you how the forty
24 kilograms would come from Europe to the United States?

25 A Yes.

Q Explain to us the route that the forty kilograms were to take.

A From France to Mexico. From Mexico to San Antonio. From San Antonio to New York.

Q Were you told by Marcello at that time who would be taking the heroin from France to Mexico?

A All I know is that it was going to be a Mexican.

Q During February of 1968 did you enter the United States at Miami, Florida in order to make preparations for this forty kilogram delivery?

A Yes.

Q At that time were you stopped by Customs and questioned?

A Yes.

Q Shortly thereafter, did you depart from Miami to New York?

A Yes.

Q Did you ultimately go back to South America without accomplishing anything?

A Yes.

Q During the month of March 1968 did you travel from Montevideo, Uruguay to John F. Kennedy

1
2 Airport in Queens, New York?

3 A Yes.

4 Q At that time were you arrested?

5 A Yes.

6 Q Were you sent to jail?

7 A Yes.

8 Q During April 1968 were you released
9 from jail?

10 A Yes.

11 Q Where did you go after you were
12 released from jail?

13 A I went to Buenos Aires.

14 Q Before you went to Buenos Aires, did
15 you stay at anyone's home in New York?

16 A Yes.

17 Q Who did you stay with?

18 A I stayed in Florencio Gonzales' home.

19 Q Was he your buyer for heroin in New
20 York?

21 A Yes.

22 Q While you were at Florencio Gonzales'
23 home, did a person called Dino come from South America
24 to see you?

25 A Yes.

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Q Did Dino tell you that Marcello had sent him to take your place in the forty kilogram delivery?

A Yes.

Q Did Dino tell you that he was to go to San Antonio to pick up the forty kilograms from the Mexican?

A Yes.

Q Subsequently did you return to Buenos Aires?

A Yes.

Q Was that forty kilogram transaction consummated?

A Yes.

Q Was it Dino who picked up the forty kilograms in San Antonio and delivered them to the buyer in New York?

A Yes, it was Dino.

Q Did you and Marcello receive a share of the profits from this transaction?

A Yes.

Q Was the forty kilogram transaction consummated during May or June of 1968?

A Yes.

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Q In or about November of the same year, 1968, were arrangements made by you and Marcello for an eighty kilogram transaction?

A Yes.

Q Was this eighty kilograms of heroin to be introduced into the United States the same way as the forty kilograms of heroin?

A Yes.

Q Prior to the eighty kilogram deal, did Marcello travel to Italy to meet with Paul Paganacci?

A Yes.

Q When he returned, did Marcello tell you that arrangements had been made with Paul Paganacci for the delivery of the eighty kilograms of heroin?

A Yes.

Q Was it Dino who again went to San Antonio, picked up the eighty kilograms and delivered them to the buyer in New York?

A Yes.

Q Was the money received from this deal ultimately brought down to Buenos Aires?

A Yes.

Q Did there come a time when Marcello traveled from South America to Italy with money for Paul Paganacci?

A Yes.

Q Did you also travel from Buenos Aires to Rome, Italy with money for Paul Paganacci?

A Yes.

Q Had Marcello arrived in Italy before you?

A Yes, before me.

Q Was this in December, approximately December 1968?

A Yes.

Q Was the money you brought to Italy, money that you had received in connection with the eighty kilogram deal?

A Yes. You mean that I took to Italy?

Q Yes.

A Yes.

Q While in Italy, did you and Marcello meet with Paul Paganacci?

A Yes.

Q Where in Italy did you meet with him?

A It was in Rome, at Marcello's apartment.

Q At that time did Paganacci make reference to a future transaction in your presence?

A Yes.

Q I direct your attention now to approximately April 1969. At that time did you and Marcello arrange for the shipment of approximately thirty kilograms of heroin into the United States?

A Yes.

Q At that time were you living in Buenos Aires or Rio de Janeiro?

A Rio.

Q Had Marcello called you concerning this thirty kilogram transaction?

A Yes.

Q Subsequent to his call, did you go to Buenos Aires to see him concerning this?

A Yes.

Q Did you personally make an investment in this transaction?

A Yes.

Q How much money did you invest, approximately?

A Approximately \$20,000.

Q How much money did you receive as profits?

1
2 A Between \$25,000 and \$30,000.

3 Q Was the thirty kilograms of heroin
4 also received from Paul Paganacci?

5 A Yes.

6 Q In or about June 1969, did Marcello
7 send 100 kilograms of heroin into the United States?

8 A Yes.

9 Q Do you know who delivered this heroin
10 to the customer in the United States or arranged
11 for that delivery?

12 A It was Mariano.

13 Q Is that Mariano Warden?

14 A Yes.

15 Q Did you personally have an investment
16 in this 100 kilogram transaction, Mr. Nicoli?

17 A No.

18 Q Was it Marcello who told you that
19 Mariano Warden made the delivery in the United States?

20 A Yes.

21 Q Did Mariano Warden himself tell you that
22 he had made this delivery for Marcello?

23 A Yes, also.

24 Q In or about January 1970 were you
25 contacted? Were you telephoned by Marcello concerning

AK-REPORTING
COURT REPORTERS

RICHARD J. CONNEY
MICHAEL E. O'CONNELL

another narcotics transaction?

A Yes.

Q Did this shipment involve approximately sixty kilograms?

A Yes.

Q Did you personally invest with Marcello in this shipment?

A Yes.

Q Was this shipment delivered to the United States?

A Yes.

Q Was this shipment also -- shipment of heroin also supplied by Paul Paganacci?

A Yes.

Q Did Marcello tell you that he had made arrangements with Paul Paganacci concerning this deal?

A Yes.

Q In or about April 1970 were you telephoned by Marcello concerning another sixty kilogram transaction?

A Yes.

Q At that time did you travel from Rio de Janeiro to Buenos Aires?

AK-REPORTING
COURT REPORTERS

RICHARD L. DOWNEY
RICHARD C. O'CONNELL

1
2 A Yes.

3 Q In Buenos Aires, did you meet with
4 a man called Cesar Melchiore and another man called
5 Felice Bonetti concerning this transaction?

6 A Yes.

7 Q Did they tell you they would handle
8 the delivery in the United States, that is, Felice
9 Bonetti and Cesar Melchiore?

10 A Yes.

11 Q Did they ultimately make the delivery
12 in the United States?

13 A Yes.

14 Q You and Marcello shared in the profits
15 from this transaction, did you not?

16 A Yes.

17 Q This shipment was also supplied
18 by Paul Paganacci, was it not?

19 A Yes.

20 Q In or about December 1970, did Marcello
21 telephone you concerning another sixty kilogram
22 heroin transaction?

23 A Yes.

24 Q As a result of this phone call, did
25 you go from Rio de Janeiro to Buenos Aires and

1
2 meet with Marcello?

3 A Yes.

4 Q Did you also invest in this sixty
5 kilogram transaction?

6 A Yes.

7 Q Did Marcello tell you that this sixty
8 kilograms was also supplied by Paul Paganacci?

9 A Yes, also.

10 Q Was this sixty kilograms ultimately
11 introduced into the United States?

12 A Yes.

13 Q Do you know who made the arrangements
14 for the delivery into the United States?

15 A It was Cesar Melchior.

16 Q Mr. Nicoli, I show you Grand Jury
17 Exhibit 4. Is that a photograph of Gigante?

18 A Yes.

19 Q The same Gigante you mentioned during
20 your testimony?

21 A Yes.

22 Q I show you Grand Jury Exhibit 5. Is
23 that a photograph of Cesar Melchior who you
24 mentioned during your testimony?

25 A Yes.

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2 MR. PUCCIO: I offer those two
3 photographs, Grand Jury Exhibits 4 and
4 5 into evidence.

5 I have no further questions.

6 Any questions by the Jury?

7 (No response.)

8 THE FOREMAN: You are excused.

9 (Whereupon, the witness was
10 excused and withdrew.)
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U.S.A. Plaintiff
 v/s
FRANCOIS ROSSI Defendant
 v/s
PETER SCHLAM, AUSA. Attorney
ALBERT J. KRIEGER, ESQ. Attorney

3 rd. Party Deft

GOVERNMENT
 EXHIBIT
PAGE I

Attorney

WITNESS	DESCRIPTION OF EXHIBITS	IDENT.	EVIDENCE
JAN 5 - 1976	JAN 5 - 1976		
MICHEL NICOLI	29 Pages of reports	3500-1	
Interv. M. Mansu	2 page letter 7/18/74	3500-2	
Ch. Report J. Rabella	Photograph	X	1
Ch. Report M. Miele	" (CITIAPIE)	2	2
Ch. Report D. Simon	" (MASSO T)	3	3
	" (CARRARA)	4	4
	" (SPAONKO)	5	5
	" (C. FONSI)	6	6
	" (PARISIO)	7	7
	Copy of documents	8	8
	2 page report 2/15/77	3500-3	
	9 page report 1/20/77	3500-4	
	23 " statement	3500-5	
	2 " " 4/2/77	3500-6	
	4 page report 4/2/77	3500-7	
	2 " " 4/15/77	3500-8	
	2 " " 4/24/77	3500-9	
	1 " " 5/3/77	3500-10	
	3 " " 6/22/77	3500-11	
	Transcript of all conversations	3500-12	
	1 page report 7/12/77	3500-13	
	1 " " 7/23/77	3500-14	
	2 " " 7/25/77	3500-15	
	4 " " 8/14/77	3500-16	
	1 " " 8/14/77	3500-17	

PLATT
Date: JUL 7 1976

File Number:
73 CR 164 4 22

U.S.A. Plaintiff

Peter Schlamm Attorney
AUSA

V/S

MIGUEL RUSSO Defendant

NANCY ROSNER Attorney

V/S

3 rd. Party Dis



Attorney

WITNESS	DESCRIPTION OF EXHIBITS	IDENT.	EVIDENCE
	JUL 7 1976		
3 APPROX 2-3 2-3 3-33 MICRO 2-33 Pizzetti 3-33	3500 MATERIAL 3500-1 thru 3500-39		
MICHEL NICOLI	5-Page Document	X	+ withdrawn
	Registration form + Bill	2	2
	Photostat - Document (front)		1-C
	Photostat - Document (back)		1-D
	Registration / City Squire	3	3
	3-Page Document	4	
	Photostat - Immigration Form 8/10/67		4-A
	Registration - Bill / Americana	5	5
	3-page Document	6	
	Photostat - Imm / 10/21/67		6A
	Photostat	6B	
	"	6C	6C
	"	6D	
	Registration / Hotel De Lido 10/1/67	7	7
	Registration / Bill / Hilton 10/23/67	8	8
	De Lido Registration / 10/27/67	9	9
	JUL 8 1976		
MICHEL NICOLI	Photostat - 3 pages	10	
	Immigration Form		10A
	" (Chinese)		10B
	Registration - Bill / De Lido 10/4/67	X	11
New Jersey (Deno)	Photostat / I 94 Form		13
	"		14

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK } ss

Bernard J. Fried being duly sworn,

deposes and says that he is employed in the office of the United States Attorney for the Eastern District of New York.

That on the 10th day of June 19 77 he served a copy of the within
Brief and Government's Supplemental Appendix

by placing the same in a properly postpaid franked envelope addressed to:

Juris G. Cederbaums

Nancy Rosner

30 Broad St.

401 Broadway

New York, N.Y. 10004

New York, N.Y. 10013

and deponent further says that he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Court House, ^{225 Cadman Plaza East} ~~Eastern District of New York~~, Borough of Brooklyn, County of Kings, City of New York.

Sworn to before me this

10th

day of

June

19 77

Barbara A. Allen

BARBARA A. ALLEN
Notary Public, State of New York
No. 24-46824
Qualified in Kings County
Commission Expires March 30, 1979